UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/587,671 | 07/27/2006 | Michael Maschke | 2003P17536WOUS | 8478 |

7590 03/16/2010

Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

| EXAMINER | |
|---|---|
| BRUTUS, JOEL F | |
| ART UNIT | PAPER NUMBER |
| 3768 | |
| MAIL DATE | DELIVERY MODE |
| 03/16/2010 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/587,671 | MASCHKE, MICHAEL | |
| | Examiner | Art Unit | |
| | JOEL F. BRUTUS | 3768 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *04 December 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *11-24* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 11-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al (US Pat: 6,394,952) stand alone or in view of Binkert et al (2003/0197734) or Murphy (2003/0204248).

Regarding claims 11-15, 19-21, and 24, Anderson et al teach a reader head assembly (not shown) supported within a reader device 600 is adapted to read the immunoassay 200 test strip, and optionally a symbology, exemplified as a bar code 216 on with the immunoassay device [see fig 6 and column 18 lines 1-15] that is pertinent to the claimed invention. Anderson et al further teach a data entry keypad 604 that can be used by an operator of the reader device 600 to input identification information, to enter control test parameters, to initiate and terminate testing. A processing unit (not shown) housed within the reader device 600 is responsive to the keypad and performs data analysis functions in accordance with modifications made to a processor in the processing unit by an appropriate software subsystem [see fig 6 and column 18 lines 17-29].

The processing unit is used as a control unit (emphasis added) and the whole system as taught by Anderson in fig 6 can be used to in medical diagnostic or treatment

system to control operations of an x-ray imaging unit which uses high energy images, through the data entry pad (emphasis added).

Anderson et al may not specifically mention controlling high image energy.

However, Anderson et al teach the test strip refers to any means on which patient test data or other data is generated, recorded or displayed in a manner that forms an image or from which an image can be generated [see column 6 lines 53-58].

Anderson et al teach the device includes a symbology, such as a bar code which is used to associate identifying information, such as intensity value, standard curves, patient information, reagent information and other such information, with the test device. The reader in the system is optionally adapted to read the symbology [see column 2 lines 28-38]. Anderson et al teach that conjugated to latex particles containing a blue dye may be used [see column 16 lines 1-5]. Dye is also insertable or injectable (emphasis added).

However, Blinkert et al teach CT or MR imaging [see 0220].

However, Murphy teaches CT imaging [see abstract, 0022, 0046].

Therefore, one with ordinary skill in the art at the time the invention was made would have been motivated to modify the Anderson et al reference by using the reader containing the processing unit to read a symbology (or stripe, bar code) of a dye to control the intensity of an X-ray imaging unit; for the purpose of applying a desired energy of the imaging unit or combine Anderson et al with Binkert et al or Murphy by using their imaging unit with the reader head to control the intensity of the imaging unit for the reason as set forth above.

Regarding claims 16 and 18, all other limitations are taught as set forth by the above teaching.

Anderson et al don't explicitly mention displaying concentration of contrast agent.

However, Anderson et al teach data collected from the test strip are compared to a threshold or reference reflectance value to determine the presence or concentration of the analyte. The output can be displayed via an operator interface, or can be output to another computer or apparatus [see column 26 lines 27-40 and column 25 lines 57-60].

Therefore, one with ordinary skill in the art at the time the invention was made would have been motivated to display a concentration of contrast agent or dye; in order to evaluate the image as to adjust a parameter of the imaging unit such as the intensity to enhance visualization of the diagnosed area.

Regarding claims 17 and 22-23, all other limitations are taught a set forth by the above teaching.

Anderson et al don't teach displaying a stent and an adjacent region within the object.

However, Blinkert et al teach an image of the suggested stent graft is displayed inserted in the graphic of the vessels in a graphic user interface [see 0020].

Therefore, one with ordinary skill in the art at the time the invention was made would have been motivated to combine Anderson with Blinkert et al by displaying a stent and an adjacent region within the object as taught by Blinkert et al; in order to

allow the physician to evaluate whether the suggested stent graft is sized properly [see 0020, Blinkert et al].

### *Response to Arguments*

3. Applicant's arguments filed 12/04/2009 have been fully considered but they are not persuasive.

Applicant argues that Anderson et al don't teach a control unit which controls the taking of high energy image adapted to set operating parameters of imaging unit.

The examiner disagrees because Anderson et al teach a reader head assembly (not shown) supported within a reader device 600 is adapted to read the immunoassay 200 test strip, and optionally a symbology, exemplified as a bar code 216 on with the immunoassay device [see fig 6 and column 18 lines 1-15].

Anderson et al further teach a data entry keypad 604 that can be used by an operator of the reader device 600 to input identification information, to enter control test parameters, to initiate and terminate testing. A processing unit (not shown) housed within the reader device 600 is responsive to the keypad and performs data analysis functions in accordance with modifications made to a processor in the processing unit by an appropriate software subsystem [see fig 6 and column 18 lines 17-29].

Anderson et al may not specifically mention controlling high image energy.

However, Anderson et al teach the test strip refers to any means on which patient test data or other data is generated, recorded or displayed in a manner that forms an image or from which an image can be generated [see column 6 lines 53-58].

The processing unit is used as a control unit (emphasis added) and the whole system as taught by Anderson in fig 6 can be used to in medical diagnostic or treatment system to control operations of an x-ray imaging unit which uses high energy images, through the data entry pad (emphasis added).

Anderson et al also mention such strips, include, but are not limited to, immunochromatographic test strips, such as lateral flow devices, X-ray films, such as X-rays and films produced from sequencing gels, EKG printouts, MRI results and other such means that generate or from which an image as defined herein can be generated. The strip is preferably adapted for scanning or reading by a reader [see column 6 lines 53-58].

***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOEL F. BRUTUS whose telephone number is (571)270-3847. The examiner can normally be reached on Mon-Fri 7:30 AM to 5:00 PM (Off alternative Fri).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le can be reached on (571)272-0823. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F. B./
Examiner, Art Unit 3768

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768